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No. _____

IN THE

Supreme Court of the United States

October Term, 1979

Douglas Warren Webster

Petitioner,

v

The Board of Education of the City of Chicago, *et al.*

Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals For the Seventh Circuit

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE AND BRIEF AMICUS CURIAE OF CHICAGO LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW, INC. IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI BY DOUGLAS WARREN WEBSTER

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI BY DOUGLAS WARREN WEBSTER

Chicago Lawyers' Committee for Civil Rights Under Law, Inc., by its attorneys, respectfully moves this Court for leave to file its brief Amicus Curiae in support of Douglas Warren Webster's Petition for a writ of certiorari.

Consent of Respondents has been requested but was denied. Consent of Petitioner has been granted, and a copy of such consent has been filed herewith.

Chicago Lawyers' Committee for Civil Rights Under Law, Inc. is a non-partisan, not-for-profit Illinois Corporation whose purpose is to provide legal services to poor and minority people in and around Chicago. Its areas of activities primarily involve race and sex discrimination in housing, employment, education,

health and prisoners' rights. The guarantee of procedural due process under the Fourteenth Amendment is of particular concern to the Committee, which has filed briefs in support of this and other constitutional rights in numerous other cases.

The Committee seeks to represent in this litigation the interests of all persons who have been or will be considered for the position of principal of a Chicago public school who have a record of arrest or who have exercised their Fourth Amendment rights. The interest of the Committee arises both from the important ramifications of this decision for such individuals and for the Chicago school system and from its desire to speak for those who have been or may be denied due process of law by the Board of Education.

It is the position of the Committee that the Board of Education seriously infringed Petitioner's constitutional rights when it construed the exercise of his Fourth Amendment right as evidence of poor moral character and denied him an opportunity to be considered for a principalship based solely on the fact of his arrest and the subsequent suppression of illegal evidence.

WHEREFORE, Chicago Lawyers' Committee for Civil Rights Under Law, Inc. prays that this Court grant its motion to file its brief Amicus Curiae.

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BRIEF AMICUS CURIAE OF CHICAGO LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW, INC. IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI BY DOUGLAS WARREN WEBSTER

STATEMENT OF THE CASE

Petitioner Douglas Warren Webster, a black American, has been a school teacher in Chicago for 26 years. In 1970 he was granted a principal's certificate. At the time of trial his name was on the eligibility list of the Chicago Board of Education for appointment as a principal. The District Court found that "throughout his career in the Chicago school system, he has enjoyed a superior rating for the way he has performed his duties of a teacher, master teacher, assistant principal, and acting principal." District Court Memorandum, p. 3.*

The Local School Advisory Council, Associate Superintendent, and General Superintendent of Schools recommended in January 1972 that Webster be appointed principal of Delano Elementary School. At a meeting of the Board of Education that month, the Board's attorney informed it that Webster had been arrested in January, 1971 and later indicted for receipt of a stolen ring worth more than $100. The attorney told the Board that the evidence against Webster had been suppressed on the ground that it had been seized in violation of his Fourth Amendment rights.

The Board voted not to make the recommended appointment, one Board member observing that the indictment was dismissed "on a technicality." Memo, p. 5. Thus, the District Court found as a fact that:

> "*Webster was denied the promotion only because he was once arrested, indicted for a felony, but never convicted.* Following this vote, and one taken April 26, 1972 that adhered to it, Webster was never again considered for a school principalship, although he was recommended for the position, and he has always held the certificate by which the Board of Examiners declared, and the Board of Education has recognized, that he is qualified for such a position." (emphasis supplied) Memo, p. 5.

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* Hereafter "Memo p. ___."

The District Court further found:

> "Webster had every reason to expect appointment to the position for which he had been recommended. He had been selected by the local advisory council. He was recommended by the General Superintendent and the Deputy Superintendent. He had the approval of the responsible Associate Superintendent. He had the support of the Board's administrative staff." Memo, p. 13.

The Board's action in considering Webster's arrest operated in practical effect to remove him from the list of eligible candidates for principalship, even though he was entitled to be on such list by virtue of having earned a principal's certificate.*

The Court of Appeals came close to recognizing this in noting that the factor most favorable to Webster's claim of a "protectable property interest" was the Board's summary refusal to consider his second nomination without prejudice. Slip. Op. p. 8 While the Court of Appeals concluded that Webster "remains free to seek public employment in positions other than the ones to which he was not promoted," *Id.*, it failed to respond to the District Court's finding that "freedom" for Webster does not mean the seeking of employment outside the Chicago school system.

The Court of Appeals erroneously characterized Webster's claim only as a claim that he was entitled to the *appointment* and determined that the Board's consideration of his arrest

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* The principal's certificate cannot be revoked or suspended except upon written notice to the teacher, who must be afforded a hearing and a fair opportunity to invoke the rules and understandings promulgated by the Board of Examiners. Ill. Rev. Stat. 1971, ch. 122, Sec. 21-23; Memo, p. 9. The principal's certificate represents the right to be on the list of persons eligible to be principals from which selections are made and, interestingly, even felony convictions may not bar certification. Ill. Rev. Stat. 1977, ch. 122, Sec. 21-1.

without an explanation from him adequately protected all liberty and property interests he could assert.

QUESTIONS PRESENTED

Reliance upon arrest records in making employment decisions concerning Black Americans presents substantial questions under federal law. This case presents three closely related such questions:

1. Whether the State may interfere with a person's Fourth Amendment right to suppress illegally obtained evidence by denying him public employment for which he is otherwise qualified;

2. Whether it violates Due Process to deny an applicant for principalship an appointment based solely on the fact of his arrest;

3. Whether a Black applicant's right, under Title VII of the Civil Rights Act of 1964, to be considered for employment in a racially neutral manner is violated by denial of the opportunity to be considered for employment solely on the basis of an arrest.

SUMMARY OF ARGUMENT

This Court has made it clear that the government may not deny a benefit to a person on a basis that infringes upon a constitutionally protected interest without due process of law. This is true even though an individual may have no right to a valuable government benefit, and even though the government may deny him such a benefit for any number of reasons.

This general principle has been most often applied to denials of public employment and has been applied regardless of the employee's right to the job. *See, Perry v. Sindermann*, 408 U.S.

593, 597 (1972); *Mount Healthy Cnty. Dist. School Bd. v. Doyle*, 429 U.S. 274 (1977); *Keyishian v. Board of Regents*, 385 U.S. 589, 605-606 (1972); *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968); *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957). All employees should be allowed to utilize all available opportunities for advancement free of discrimination resulting from use of arrest records and inferences drawn from the exercise of constitutionally protected rights. The Board's denial to Petitioner of an opportunity to be fairly considered for principalship based solely on his arrest amounts to punishment for a crime for which he was not tried, and the Court of Appeals' refusal to invalidate the School Board's conduct allows the Board to punish Webster in derogation of his exercise of his Fourth Amendment rights. This Court has consistently refused to allow arbitrary governmental interference with the opportunity for public employment as a reprisal for the exercise of a constitutional right.

Application of these principles to this case requires this Court to grant the writ and reverse the Court of Appeals because Respondent has infringed Petitioner's constitutionally protected interests in (1) exercising his Fourth Amendment rights without government reprisal, (2) being considered for public employment on the basis of criteria rationally related to a legitimate public concern, and (3) being considered for public employment in a racially neutral manner.

ARGUMENT

I. The Board's Consideration Of Petitioner's Exercise Of His Fourth Amendment Right Resulting In The Suppression Of Criminal Evidence Violated His Right To Be Free From Arbitrary Governmental Reprisal.

The Board's refusal to consider Petitioner for a principalship based on his exercise of Fourth Amendment rights amounts to punishment for a crime for which he was not tried, and the

Court of Appeals' refusal to invalidate the Board's conduct allows the Board to punish him in derogation of his Fourth Amendment rights.

This Court has consistently refused to allow arbitrary governmental interference with the opportunity for public employment as a reprisal for the exercise of a constitutional right. This problem has been addressed specifically in relation to First and Fifth Amendment rights in language that is broad and clearly applicable to the exercise of all constitutional rights. *See, Board of Regents v. Roth*, 408 U.S. 564 (1972); *Perry v. Sindermann*, 408 U.S. 593 (1972); *Slochower v. Board of Higher Education of New York City*, 350 U.S. 551 (1956). The interests protected by the Fourth Amendment are no less important. *Mapp v. Ohio*, 367 U.S. 643, 656 (1961).

Almost 100 years ago, in *Boyd v. United States*, 116 U.S. 616, 630 (1886), this Court held that both the Fourth and the Fifth Amendments protected citizens from an offense whose essence is "the invasion of [their] indefeasible right of personal security, personal liberty, and private property. . . ." This Court has consistently reaffirmed that protection of these interests is one of the purposes of the Fourth Amendment. See *Schmerber v. California*, 384 U.S. 757, 767 (1966); *Mapp v. Ohio*, 367 U.S. 643 (1961); *Wolf v. Colorado*, 338 U.S. 25 (1949). These guarantees of the Fourth Amendment are preserved by an individual's right to invoke the exclusionary rule.*

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* The exclusionary rule, first formulated in *Weeks v. U.S.*, 232 U.S. 383 (1914), is considered the most effective remedy for a violation of the Fourth Amendment, *Weeks* at 652; *Accord, Mapp v. Ohio*; *Wolf v. Colorado*, 338 U.S. 25 (1949); and gives force to its broad protections and rights.

> [W]ithout the Weeks rule the assurance against unreasonable federal searches and seizures would be a 'form of word', valueless and undeserving of mention [in the Constitution]; without [the] rule [the Fourth Amendment right to privacy would stand in marked contrast to all other rights declared "basic" to a free society]. . . . to hold otherwise is to grant the right but in reality to withhold its privilege and enjoyment.

Mapp v. Ohio, 367 U.S. at 655-56.

The exclusion doctrine is an integral part of the Fourth Amendment and its most important constitutional safeguard; when an individual's ability to invoke the rule is denied, he is left powerless to deter governmental invasions of his privacy. A penalty for invoking the rule undercuts the Fourth Amendment right itself. An individual's freedom from governmental reprisal is not limited to freedom from prosecution or criminal sanctions. Denial of consideration for public employment is equally important. Such governmental reprisal through denial of public employment based on the exercise of a constitutional right has been specifically rejected by this Court.

> "[T]o suggest that teachers may constitutionally be compelled to relinquish the [constitutional rights] they would otherwise enjoy as citizens [and] (t)he theory that public employment which may be denied altogether may be subject to any conditions, regardless of how unreasonable, [have] been uniformly rejected."

Pickering v. Bd. of Education — Township High School, 391 U.S. 563, 568 (1968), quoting *Keyishian v. Board of Regents*, 385 U.S. 589, 605-606 (1967).

This Court has specifically addressed the government's ability to retaliate by a denial of public employment in the context of the Fifth Amendment. In *Slochower v. Board of Higher Education*, 350 U.S. 551 (1956), the plaintiff had been summarily discharged pursuant to a New York state statute for refusing to testify on a question of political belief before a federal legislative committee. The Court stated that "[Our forefathers raised this right] to the dignity of a constitutional enactment and it has been recognized as 'one of the most valuable prerogatives of the citizens'," 350 U.S. at 557, and condemned the practice of "imputing a sinister meaning to the exercise of a person's constitutional right. . . ." *Id.* Since the defendant board was forbidden to presume guilt from the claim of the privilege, and made no independent inquiry or determination of plaintiff's fitness, the denial of public employment violated the Due Process Clause.

> "The privilege . . . would be reduced to a hollow mockery if its exercise could be taken as equivalent either to a confession of guilt or a conclusive presumption of perjury. . . . A witness may have a reasonable fear of prosecution and yet be innocent of any wrongdoing. The privilege serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances."

350 U.S. at 357-58.

The Court of Appeals, by allowing the Board to infer guilt from Petitioner's claim of Fourth Amendment privilege, and thereupon remove him from consideration for a principalship, has denied to Petitioner the same freedom to secure his constitutional rights that this Court granted in *Slochower*.* It has denied Petitioner due process of law. It would be anomalous indeed if those same rights so zealously protected by the Fifth Amendment should be trammeled when asserted pursuant to the Fourth Amendment.

Petitioner was entitled to a hearing** at which it should have been determined whether the denial of employment was based on Petitioner's lawful suppression of evidence or an inference of guilt therefrom; and whether there was a rational connection between the consideration of Petitioner's arrest and exercise of his Fourth Amendment right and his ability to perform adequately as a principal. *Slochower* requires no less.

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* Both the Fourth and Fifth Amendments are concerned with the privacy and personal dignity of the individual, and seek to insulate him from arbitrary governmental intrusion. In *Boyd v. U.S.*, 116 U.S. 616, 630 (1886), the Court said the two Amendments "almost run into each other." *Accord, Schmerber v. California*, 384 U.S. 757, 767 (1966).

** State law may determine the appropriate administrative body in which to conduct this constitutionally-mandated impartial hearing. *See*, footnote, p. 2.

II. The Board's Consideration Of Petitioner's Arrest Was Not Rationally Related To Choosing Persons Of Good Moral Character To Be Principals And Thus Violated Petitioner's Right To Due Process.

It is conceded that it is in the public interest that an appropriate governmental body may prohibit individuals of poor moral character from becoming principals in the Chicago Public School system. The validity of this goal is not under challenge. However, the method used to achieve that goal in this case — inference of poor moral character solely from the fact of Petitioner's arrest — violates the Fourteenth Amendment.

Adverse inferences drawn from an arrest are an insufficient basis for a denial of public employment. In *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957), this Court held that, "The mere fact that a man has been arrested has very little, if any, probative value in showing that he has engaged in any misconduct. An arrest shows nothing more than that somebody probably suspected the person apprehended of an offense." 353 U.S. at 241. While the State can set high standards, such as good moral character, in order to be admitted to the profession in question, the application of these permissible standards "cannot exclude the applicant when there is no basis for their finding that he fails to meet these standards. . . ." *Id.* at 239. Since an applicant's arrest record by itself cannot reflect adversely on his character, it follows that it is an insufficient basis for a finding that an applicant fails to meet the standard of good moral character. *Accord, Freetag v. Carter*, 489 F.2d 1377 (7th Cir. 1973); *Smith v. Fussenich*, 440 F. Supp. 1077 (D. Conn. 1977).

In *Schware*, the Bar Examiners had no evidence other than plaintiff's arrest to support its determination that he was unfit to practice law. Plaintiff was qualified in all other respects. Similarly, the Board of Education in this case had no evidence upon which to determine that Petitioner was not qualified for a principalship except his arrest record. Memo, p. 5. Indeed, like the plaintiff in *Schware*, Petitioner in this case was highly recommended by the community, the superintendents and the

staff, all of whom believed strongly in his abilities to perform the tasks of principal. Petitioner's principal's certificate indicates that he was qualified in all other respects and that the sole issue was his good moral character. His good moral character was not questioned by the Board regarding his ability to be a teacher in the school system.

The Court in *Schware* held that the defendant had deprived the plaintiff of due process in denying him the opportunity to qualify for the practice of law. Similarly, the Board of Education has denied Petitioner due process by denying him the opportunity to be considered for a position as a principal based on an impermissible assumption of unfitness drawn from consideration of his arrest record. Due process, at a minimum, requires that Petitioner have an opportunity to rebut this unfavorable inference, and that Petitioner's good character be reevaluated on evidence independent of the arrest. Since Petitioner has presented a bona fide constitutional claim, the State must demonstrate sufficient grounds for denying Petitioner consideration for advancement.

In *Bell v. Wolfish*, ___ U.S. ___, 60 L. Ed. 2d 447 (1979), this Court considered whether the detention authorities could deny pre-trial detainees certain liberties by restricting their activities and imposing certain living conditions on them without such restrictions constituting a punishment in the constitutional sense of that word. Mr. Justice Rehnquist wrote,

> "A court must decide whether the disability is imposed for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose."

60 L. Ed. 2d at 468.

The Court indicated that some restrictions on constitutional rights may be permissible if rationally related to a legitimate governmental purpose and if not excessive in relation to that purpose. *Id.* It has not been demonstrated that consideration of Petitioner's arrest was rationally related to the purpose of

choosing persons of good moral character to be principal. If the consideration of an arrest record is not reasonably related to this legitimate goal,

> ". . . it is arbitrary and purposeless — a court permissibly may infer that the purpose of the government action is punishment that may not constitutionally be inflicted [upon detainees qua detainees]."

60 L. Ed. 2d at 468.

Petitioner, like the detainees in *Bell*, has not been tried or convicted of any crime, yet the School Board has imposed a disability on him by inferring from the fact of his arrest poor moral character, and hence unfitness for principalship. In essence, the Board infringed Petitioner's due process rights by denying him the opportunity to be considered for a position as principal — an opportunity to which he was otherwise entitled pursuant to the standards set by *Schware* and *Bell*.

It would be unrealistic and naive to assume that once in possession of the arrest information, the Board could or would ignore it. The proper procedure would have been to hold a hearing at which Petitioner could have challenged the adverse evaluation, and in which an independent and individual determination of Petitioner's ability to adequately perform the duties of a principal should have been made.

III. The School Board's Consideration Of Petitioner's Arrest Violates Title VII Of The Civil Rights Act Of 1964 And Violates Petitioner's Right To Be Considered For Public Employment In A Racially Neutral Manner.

The Board's reliance on Petitioner's arrest record for denying public employment constitutes not only a violation of due process, but also a violation of Title VII of the Civil Rights Act of 1964, which makes it unlawful for an employer to

> "limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race. . . ."

42 U.S.C. Sec. 2000e-2a.

Title VII prohibits any employment practice which is not racially neutral, that is, which operates discriminatorily to exclude a class of persons protected by the statute. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

Courts throughout the country have recognized that use of arrest records is a discriminatory employment practice because arrests are not equivalent to convictions and because blacks tend to be arrested more often than whites. The opinion of the Court of Appeals in this case is in conflict with those decisions.* In the leading case, the Court enjoined an employer from utilizing as a factor in determining any condition of employment, including hiring, promotion and termination, any record of arrest which did not result in conviction. *Gregory v. Litton Systems, Inc.*, 316 F. Supp. 401, 404 (C.D. Cal. 1970), *mod. on other grounds*, 472 F. 2d 631 (9th Cir. 1972). The Court recognized that such arrest information was potentially discriminatory in that blacks are "arrested substantially more frequently than whites in proportion to their numbers." *Id.* at 403. The Court said

> "If Litton is permitted to continue obtaining information concerning the prior arrests of applicants for employment which did not result in convictions, the possible use of such information as an illegally

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* *See, e.g., Carter v. Gallagher*, 452 F. 2d 315, *cert. denied*, 406 U.S. 950 (8th Cir. 1971) [Minneapolis Fire Department enjoined from including arrest records in examination of applicants]; *Dozier v. Chupka*, 395 F. Supp. 836, 850 (S.D. Ohio 1975) [Columbus Fire Department enjoined from using arrest records since not job related].

> discriminatory basis for rejection is *so great* and *so likely* that, in order to effectuate the policies of the Civil Rights Act, Litton should be restrained from obtaining such information.

(emphasis supplied) *Id.* at 403.

The Board's consideration of Webster's arrest record was unlawful because the policy of considering arrest records has the foreseeable effect of denying black applicants an equal opportunity for employment and promotion. It is likely that given the choice between two applicants of equal caliber, one with an arrest record and one without, an employer will view the one with an arrest record as less suitable for employment. *Note*, "Discrimination on the Basis of Arrest Records," 56 Cornell L. Rev. 470, 471-2 (1971). Thus, this practice is racially discriminatory because statistically blacks are arrested more often than whites.

Only those practices which can be justified by "business necessity" are exempted from the Title VII prohibition. The defense of business necessity is available only to the employer who can prove that the discriminatory practice is essential to the safe and efficient operation of his business.

The Court in *Gregory* stated that there was no evidence that persons who have suffered no criminal convictions but have been arrested on a number of occasions can be expected to perform less efficiently or less honestly than other employees and that, in fact, the evidence is overwhelmingly to the contrary. It is instructive that no court has ever recognized a business necessity defense for the practice of considering arrest records.*

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* This argument has been rejected, among other cases, where the prospective position involved a railroad cargo worker, *Green v. Missouri Pacific Railroad Company*, 523 F. 2d 1290 (8th Cir. 1975) [defendant vainly argued that there was great need for honesty because of cargo theft, valuable cargo, etc.].

The Court of Appeals rejected Petitioner's claims of racial discrimination in this case because there was no evidence that race formed the basis of any action by the board, and it intimated that there was a failure to show discriminatory intent. Slip. Op. pp. 16-17. However, it is clear from *Griggs v. Duke Power* that Petitioner need not prove discriminatory intent in order to prove a violation of Title VII.*

The Court of Appeals also criticized Webster's failure to show a pattern or practice of use of arrest records by the

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* It is a mistake to interpret Title VII to require specific intent to discriminate. It is enough if the conduct of the employer produced the discriminatory result. A different standard of proof is applicable in cases brought under Title VII and those under the Fourteenth Amendment. In *Washington v. Davis*, 426 U.S. 229 (1976), the Court emphasized that they are not the same:

> "We have never held that the constitutional standard for adjudicating claims of invidious racial discrimination is identical to the standards applicable under Title VII and we decline to do so today."

426 U.S. at 239.

The Court of Appeals for the Seventh Circuit has acknowledged that the standards for proving constitutional and Title VII claims are different in a case decided after *Washington v. Davis*. In *United States v. City of Chicago*, 549 F. 2d 415 (7th Cir. 1977), *cert. denied, Isakson v. United States*, 436 U.S. 932 (1978), Judge Swygert stated:

> "(T)he Court held (in *Washington v. Davis*) for constitutional purposes it is necessary to show an intent or purpose to discriminate by reason of race. Thus, the Court has differentiated between the standard necessary to prove a violation of Title VII and the standard required under the Constitution. Under Title VII, a disproportionate racial impact remains enough to establish a prima facie case while under the Constitution evidence of intention must be proved."

549 F. 2d at 435; *accord, Scott v. City of Anniston*, 48 U.S.L.W. 2056 (5th Cir. July 24, 1979).

Board.* However, the District Court refused to admit Petitioner's evidence of such a pattern and practice. Since Petitioner has shown that the Board utilized arrest records in his own case, and since *Gregory v. Litton* and its progeny have established the presumption that use of arrest records is a discriminatory employment practice, Petitioner has made out a *prima facie* case. The burden now shifts to the Board to rebut the presumption by demonstrating that its use of arrest records with regard to Petitioner was rationally related to determining his suitability for principalship. The proper procedure would have been for the Board to refer the matter to the appropriate administrative body for a hearing where Petitioner could respond to the charges against him. Respondent has failed to make this determination properly, and it has never raised any defense to rebut the presumption of violation of Title VII.

The District Court found that the Respondent in this case utilized arrest records in precisely the manner which led to the recognition that their use is an unacceptable employment practice. Respondent discovered the fact of the arrest, drew an unfavorable and impermissible inference of guilt from that fact and its own investigation, and disqualified solely for that reason a black applicant who was otherwise highly recommended and well qualified. Respondent has thus violated Title VII by denying him an opportunity for an independent hearing as to the arrest and in using the information as the sole basis for disqualification of a black applicant.

While the State has the right to require that its appointees to principalships be of good moral character, it must choose methods of inquiry and criteria which "will accomplish the goal equally well with a lesser differential racial impact," *Green v. Missouri Pacific Railroad Company*, at 1298. Acceptable alternatives to the methods of determining Webster's good

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* If a continuing practice must be established, as the Court of Appeals seems to suggest, those parties first prejudiced by the instigation of a discriminatory practice will be deprived of rights available to those who come later.

character used were available and would not have raised the potential for discrimination which inheres in the use of arrest records.

In the absence of a hearing, Petitioner has suffered a deprivation of his right to be free from racially discriminatory hiring practices. The relief most appropriate to redress this violation of Title VII by the Board is notice and a hearing, where the appropriate administrative body can make an independent and constitutional determination of Petitioner's qualifications to be a principal in the Chicago Public School System.

CONCLUSION

For the foregoing reasons, Amicus Curiae Chicago Lawyers' Committee for Civil Rights Under Law, Inc. respectfully submits that Webster's petition for certiorari should be granted.

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